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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/848,462

05/04/2001

Jean Mondet

2365-30

7199

7590

08/27/2002

NIXON & VANDERHYE P.C.  
1100 North Glebe Rd., 8th Floor  
Arlington, VA 22201-4714

EXAMINER

LAMM, MARINA

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 08/27/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant No.

09/848,462

Applicant(s)

MONDET, JEAN

Examiner

Marina Lamm

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,8-13 and 15-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,8-10 and 15-37 is/are rejected.
- 7) ☒ Claim(s) 4-6 and 11-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Acknowledgment is made of the amendment filed 6/10/02. Claims pending are 1-6, 8-13 and 15-37. Claims 7 and 14 have been cancelled.

#### ***Terminal Disclaimer***

1. The terminal disclaimer filed on 6/10/02 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on Application S.N. 09/848,237 has been reviewed and is accepted. The terminal disclaimer has been recorded.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. The rejection of Claims 1-3, 8-10, 15-22, 28-34 and 37 under 35 U.S.C. 102(b) as being anticipated by Ohno et al. is maintained for the reasons of the record.

#### ***Claim Rejections - 35 USC § 103***

4. The rejection of Claims 23-27, 35 and 36 under 35 U.S.C. 103(a) as being unpatentable over Ohno et al. in view of Mellul et al. is maintained for the reasons of the record.

#### ***Response to Arguments***

5. Applicant's arguments filed 6/10/02 have been fully considered but they are not persuasive.

In response to the Applicant's argument that the Ohno reference "does not describe silicone containing end or side groups as described in the presently claimed invention", it is noted that compounds of formula (3) on p. 3 of Ohno et al. are within the scope of the instant claims. Thus, A1' and/or A2' can be hydroxyl groups or amino groups. See p. 4, lines 1-15.

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In response to the Applicant's argument that "Ohno et al. does not describe cosmetic compositions containing silicone", it is noted that Ohno et al. explicitly teach that their silicones can be used "as bases for cosmetics". See p. 13, line 43.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (703) 306-4541.

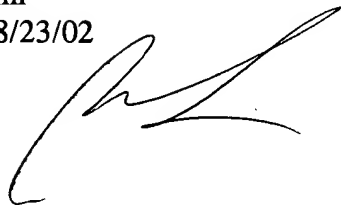
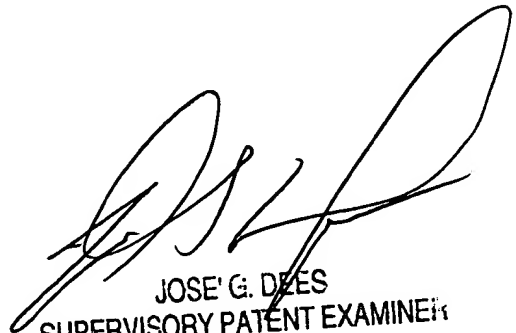
The examiner can normally be reached on Monday to Friday from 9 to 5.

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The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

ml  
8/23/02

A handwritten signature in dark ink, appearing to be 'ML', located below the date stamp.A large, stylized handwritten signature in dark ink, located above the printed name and title.

JOSE G. DEES  
SUPERVISORY PATENT EXAMINER

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